

UNITED STATES DISTRICT COURT  
Northern District of California

FRANK FAHY,

Plaintiff,

v.

ORPHEOS TARBOX, et al.,

Defendants.

No. C-09-1420 MMC (MEJ)

**RECOMMENDATION AFTER  
SETTLEMENT CONFERENCE**

On September 18, 2009, the undersigned conducted a settlement conference in this matter, during which Plaintiff Frank Fahy agreed to dismiss Defendant Alec Steiner. (Dkt. ## 62, 93.) Pursuant to the terms of the agreement, Plaintiff agreed to dismiss Alec Steiner in exchange for Mr. Steiner assigning any rights he might have for bad faith against his insurance company to Plaintiff. (Dkt. #93 at 3:11-14.) Plaintiff subsequently moved to vacate the settlement, arguing that he was unable to obtain a signed written agreement from Steiner. (Dkt. ## 83, 86.)

The undersigned conducted a further settlement conference on September 28, 2010. (Dkt. #136.) Initially upon completion of the further settlement conference, the undersigned recommended that the Honorable Maxine M. Chesney, the presiding judge in this matter, grant Plaintiff's motion to vacate the settlement. *Id.* However, upon further review of the dispute, the undersigned now RECOMMENDS that the motion to vacate the settlement be DENIED. Although the parties were unable to finalize the terms of the settlement in writing, it is clear from the September 18, 2009 transcript that there was a meeting of the minds and an unambiguous settlement was reached. (Dkt. #93.) Accordingly, rather than vacate the settlement, the undersigned recommends that Judge Chesney enforce the terms of the settlement, as stated on the record on September 18, 2009.

**IT IS SO RECOMMENDED.**

Dated: September 29, 2010

  
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Maria-Elena James  
Chief United States Magistrate Judge